

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE:	Thomas E. Rodgers, Jr.)	
	Map093-15-0, Parcel 223.00)	Davidson County
	Pro-Rated)	
	Tax Year 2007)	

INITIAL DECISION AND ORDER

Statement of the Case

An Appeal has been filed on behalf of the property owner with the State Board of Equalization on September 26, 2007. The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$34,800	\$332,900	\$367,700	\$147,080

This matter was reviewed by the undersigned administrative law judge pursuant to Tennessee Code Annotated (T.C.A.) §§ 67-5-1412, 67-5-1501 and 67-5-1505. This hearing was conducted on November 20, 2007 at the Davidson County Property Assessor's Office. Present at the hearing were Thomas E. Rodgers, Jr., the taxpayer, and Mr. Derrick T. Hammond, TMA from the Metro. Property Assessor's Office of Davidson County.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The property in dispute consists of a commercial tract of property commonly known as 1016-4th Avenue, South. The property contains 0.19 acres of land and has 4800 square feet¹ and is located in Nashville, Davidson County, Tennessee.

The taxpayer's representative contends that this structure should be valued at \$38.35 per square foot or \$184,080 based on his evaluation and assessment of building cost. Mr. Rogers used figures for his cost of construction for this property and property located at 1018 4th Avenue, South, which he also owns. Mr. Rodger also attempted to use other properties he owns but used various tax years' figures,² in his attempt to show the 'comparable' properties.

The assessor contends that the property should be valued at \$234,700 for a pro-rated value as of July 1, 2007.³ Mr. Hammond used a multi-paged exhibit discussing the three (3) approaches to value. He used the sales comparison approach and the income capitalization approach since this is primarily income producing commercial property.

¹ The county describes the property as a flex style building which lends itself to various uses. Mr. Hammonds describes a true warehouse having a minimum of 10,000 square feet with a roof height of 16 feet clear span minimum.

² Mr. Rodgers used tax statement figures from 2005 and 2006 while the appeal is for 2007.

³ Pro-rated Assessments authorized under TCA § 67-5-603 (b)(1) and direct appeals TCA § 67-5-1412(3)(e)

In the valuation process there are generally three standard customary approaches used to determine an opinion of value, they are (1) sales comparison approach, (2) cost approach and (3) the income capitalization approach.⁴

The germane issue of this appeal is the fair market value of the property as of July 7, 2007. The basis of valuation as stated in T.C.A. § 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values"

General appraisal principles require that the market, cost and income approaches to value be used whenever possible. Appraisal Institute, *The Appraisal of Real Estate* at 50 and 62. (12th ed. 2001). However, certain approaches to value may be more meaningful than others with respect to a specific type of property and such is noted in the correlation of value indicators to determine the final value estimate. The value indicators must be judged in three categories: (1) the amount and reliability of the data collected in each approach; (2) the inherent strengths and weaknesses of each approach; and (3) the relevance of each approach to the subject of the appraisal. *Id.* at 597-603.

The value to be determined in the present case is market value. A generally accepted definition **of market value for ad valorem tax purposes** is that it is the most probable price expressed in terms of money that a property would bring if exposed for sale in the open market in an arm's length transaction between a willing seller and a willing buyer, both of whom are knowledgeable concerning all the uses to which it is adapted and for which it is capable of being used. *Id.* at 2 1-22. (emphasis supplied) *Gap Inc.*, (Sumner Co., Tax Year 2006), page 2.

In the hearing of an appeal before an administrative judge concerning the classification and/or assessment of a property, the party seeking to change the current classification and/or assessment shall have the burden of proof. Rule 0600-1-.11(1) State Board of Equalization.

In the present appeal the administrative judge respectfully disagrees with the taxpayer and finds that the documents and evidence of the county support the requested finding of the opinion of value for the subject property.

Mr. Hammonds approach in determining the value by reconciling the information from the income approach and sales comparison approach support and sustain the county's requested values. And even though this is a fairly new construction since this is income producing property the income approach appears to be the more acceptable method in determining the opinion of value for this subject. As has been previously

⁴ The Appraisal of Real Estate, 12th Edition, Chapter 4 (pp 49-65) © 2001

discussed, while one method may be more acceptable than the other methods for the determination of value all three should at least be considered. Mr. Rodgers did not produce convincing evidence to support his opinion of value. To have a proper analysis the other approaches must at least be considered. Biveks Corp, et al, (Madison Co., Tax Year 2005).

ORDER

It is therefore ORDERED that the following value and assessment be adopted as of July 1, 2007 for tax year 2007:

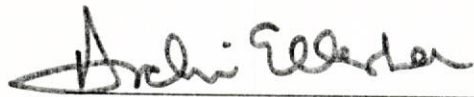
<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$34,800	\$199,900	\$234,700	\$93,880

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order. This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 18th day of January, 2008.



ANDREI ELLEN LEE
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Thomas E. Rodgers, Jr.
Jo Ann North, Property Assessor